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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,930	02/12/2004	Adrian M. Romanyszyn	L-0170.99	5488

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LAW OFFICES OF CHRISTOPHER L. MAKAY  
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EXAMINER

BUSHEY, CHARLES S

ART UNIT PAPER NUMBER

1724

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/777,930	<b>Applicant(s)</b> ROMANYSZYN, ADRIAN M.	
	<b>Examiner</b> Scott Bushey	<b>Art Unit</b> 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-13, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reynolds et al (Figs. 3, 4, and 12; col. 10, lines 25-44; col. 12, lines 28-54).

Applicant should note that the reference clearly discloses a carbonator including an oblong shaped housing (301), defining an oblong shaped interior volume. The housing includes a carbon dioxide inlet (316) and a water inlet (314) and a carbonated water outlet (350). Applicant should note that instant claims 2-5, and 7-9 cannot be considered to carry patentable weight within an apparatus claim, since claims 2, 7, and 8 recite applicant's desired results, claims 3-5 recite materials worked on, and claim 9 recites a process limitation, none of which further limit the structure of the claimed apparatus.

***Allowable Subject Matter***

3. Claims 10-13, 18, and 19 are allowed.

The prior art of record fails to disclose or suggest a carbonator as recited by instant claim 10, or the related process as recited by instant claim 18, including a cylindrical film generator including apertures therein and a hemispherical redirector coupled to the cylindrical film generator, wherein a liquid inlet is disposed within the

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carbonator in a position such that liquid is directed onto the inner surface of the hemispherical redirector and thus redirected onto the apertured cylindrical film generator where it forms a film to interact with gas that is input into the carbonator.

### ***Response to Arguments***

4. Applicant's arguments filed January 23, 2006 with respect to instant claims 1-9 have been fully considered but they are not persuasive.

Applicant argues that the Reynolds et al reference cannot be used to reject claims 1-9 in view of applicant's allegation that the reference fails to disclose an "oblong shaped housing". This is incorrect, since Reynolds et al clearly disclose an oblong shaped housing (301). In giving applicant's claims their broadest reasonable interpretation, as the Examiner must, applicant's claims clearly do not distinguish the claimed carbonator from the applied prior art. In support of the Examiner's position, applicant should note the dictionary definition of the term "oblong", as set forth in the Tenth Edition of Merriam Webster's Collegiate Dictionary. Oblong: deviating from a square, circular, or spherical form by elongation in one dimension <an oblong piece of paper> <an oblong melon> ---- oblong n.

### ***Conclusion***


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey  
Primary Examiner  
Art Unit 1724

  
2-2-06

csb  
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